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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

To authorize the Secretary of Homeland Security to become the sole owner and distributor of certain medical equipment in the event of a covered emergency; to establish a Joint Congressional Committee on Defense Production; and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. BROWN of Maryland introduced the following bill; which was referred to the Committee on _____

A BILL

To authorize the Secretary of Homeland Security to become the sole owner and distributor of certain medical equipment in the event of a covered emergency; to establish a Joint Congressional Committee on Defense Production; and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pandemic Response
5 and Interstate Cost Equity Act” or the “PRICE Act”.

1 **SEC. 2. SECRETARY AS OWNER AND DISTRIBUTER OF CER-**
2 **TAIN MEDICAL EQUIPMENT.**

3 (a) IN GENERAL.—In the event of a covered emer-
4 gency, the Secretary of Homeland Security (hereinafter
5 referred to as the “Secretary”) shall become the sole
6 owner and distributor of medical equipment obtained by
7 the Federal government pursuant to this Act for which
8 the prevailing market price exceeds the fair market price
9 by more than 15 percent and is required to address the
10 covered emergency.

11 (b) ASSESSMENT OF MEDICAL EQUIPMENT.—To
12 carry out subsection (a), the Secretary of Health and
13 Human Services, in consultation with the Secretary and
14 other Federal agencies or departments as considered nec-
15 essary, shall conduct an assessment of available medical
16 equipment, including—

17 (1) identifying the medical equipment required
18 to address the covered emergency for which the pre-
19 vailing market price exceeds the fair market price by
20 more than 15 percent;

21 (2) assessing the amount of such medical equip-
22 ment available to respond to the covered emergency,
23 including the amount of such medical equipment
24 available in the Strategic National Stockpile;

1 (3) determining the amount of such medical
2 equipment still needed to respond to the covered
3 emergency.

4 (c) CONTRACT TO PRODUCE MEDICAL EQUIP-
5 MENT.—Following the assessment under subsection (b),
6 the Secretary, in consultation with the Secretary of Health
7 and Human Services and the Secretary of Defense, shall—

8 (1) create and execute an indefinite delivery-in-
9 definite quantity contract with all persons capable of
10 producing such medical equipment to—

11 (A) respond to the covered emergency; and

12 (B) following the covered emergency, re-
13 plenish the Strategic National Stockpile to a
14 level acceptable to respond to a future public
15 health emergency or other covered emergency;

16 (2) require that all contracts created and exe-
17 cuted under this section supersede any existing con-
18 tracts such persons have already created or exe-
19 cuted; and

20 (3) establish a price for such medical equipment
21 to be resold to the States or other persons.

22 (d) SALE OR DISTRIBUTION OF CERTAIN MEDICAL
23 EQUIPMENT.—The Secretary shall sell or otherwise dis-
24 tribute medical equipment to the States or to persons that
25 request such medical equipment, giving consideration to—

1 (1) requests for medical equipment under sub-
2 sections (e) and (f);

3 (2) the continuity of operations of the Federal
4 government; and

5 (3) consultation with public health officials, as
6 may be necessary.

7 (e) STATE REQUEST FOR MEDICAL EQUIPMENT.—

8 To request an allocation of medical equipment, a State
9 shall submit to the Secretary a request for medical equip-
10 ment, including—

11 (1) the number of impacted individuals in each
12 State, disaggregated by condition and the severity of
13 such condition—

14 (A) on the date the request is submitted to
15 the Secretary;

16 (B) as projected at 14 days from the date
17 the request is submitted to the Secretary; and

18 (C) as projected at 60 days from the date
19 the request is submitted to the Secretary;

20 (2) existing health system medical equipment;

21 (3) medical equipment possessed by the State;

22 (4) an estimate of the quantity of medical
23 equipment required to diagnose and treat the condi-
24 tion for which the covered emergency is in effect;

25 and

1 (5) any additional information as determined
2 necessary by the Secretary.

3 (f) OTHER REQUESTS FOR MEDICAL EQUIPMENT.—

4 The Secretary shall establish a process under which a per-
5 son may request medical equipment to respond to the cov-
6 ered emergency.

7 (g) POST-EMERGENCY DISTRIBUTION OF MEDICAL
8 EQUIPMENT.—Upon the termination of the covered emer-
9 gency, the Secretary shall distribute any medical supplies
10 not sold or otherwise distributed to the States or any per-
11 son to the Strategic National Stockpile.

12 **SEC. 3. REPORTS TO THE CONGRESS.**

13 (a) BIWEEKLY REPORT.—

14 (1) IN GENERAL.—Not less than 14 days after
15 the date a covered emergency is in effect, and not
16 less than every 14 days thereafter, the Secretary
17 shall submit to the Congress a report on the activi-
18 ties carried out under this Act.

19 (2) CONTENT.—The report required under
20 paragraph (1) shall include—

21 (A) information on the number of im-
22 pacted individuals, disaggregated by State, con-
23 dition, and severity of such condition—

24 (i) on the date the report is submitted
25 to the Congress;

1 (ii) as projected at 14 days from the
2 date the report is submitted to the Con-
3 gress; and

4 (iii) as projected at 60 days from the
5 date the report is submitted to the Con-
6 gress;

7 (B) the amount of medical equipment still
8 needed to diagnose and treat the condition for
9 which the covered emergency is in effect,
10 disaggregated by State;

11 (C) requests submitted by the States or by
12 persons under section 2;

13 (D) information on the contracts created
14 and executed under section 2;

15 (E) the amount of medical equipment re-
16 sold or distributed by the Federal government,
17 including the allocation and projected allocation
18 of government and existing health system med-
19 ical equipment, disaggregated by State—

20 (i) on the date the report is submitted
21 to the Congress;

22 (ii) as projected at 14 days from the
23 date the report is submitted to the Con-
24 gress; and

1 (iii) as projected at 60 days from the
2 date the report is submitted to the Con-
3 gress; and

4 (F) other Federal contracts for medical
5 equipment entered into outside of section 2.

6 (b) FINAL REPORT.—

7 (1) IN GENERAL.—Not later than 60 days after
8 the termination of the covered emergency, the Sec-
9 retary shall submit to the Congress a report on the
10 activities carried out under this Act.

11 (2) CONTENT.—The report required under
12 paragraph (1) shall include—

13 (A) the content from the biweekly reports
14 submitted to the Congress under subsection (a);

15 (B) the current status of the Strategic Na-
16 tional Stockpile, including the inventory of med-
17 ical equipment and the projected quantity of
18 medical equipment required to mitigate a future
19 public health emergency or other covered emer-
20 gency; and

21 (C) an assessment of actions that Federal,
22 State, and local governments should take to
23 build resiliency to prevent, detect, treat, and
24 mitigate a public health emergency or other
25 covered emergency.

1 **SEC. 4. FUNDING.**

2 Amounts available under section 304 of the Defense
3 Production Act of 1950 (50 U.S.C. 4534) may be made
4 available for purchases made under this section.

5 **SEC. 5. ESTABLISHMENT OF JOINT CONGRESSIONAL COM-**
6 **MITTEE.**

7 (a) ESTABLISHMENT AND MEMBERSHIP.—

8 (1) IN GENERAL.—There is established a Joint
9 Committee on Defense Production (hereinafter re-
10 ferred to as the “Committee”), to be composed of—

11 (A) five members of the Committee on Fi-
12 nancial Services of the House of Representa-
13 tives, with three members from the majority
14 party and two from the minority party, to be
15 appointed by the chairman of the Committee on
16 Financial Services; and

17 (B) five members of the Committee on
18 Banking, Housing, and Urban Affairs of the
19 Senate, with three members from the majority
20 party and two from the minority party, to be
21 appointed by the chairman of the Committee on
22 Banking, Housing, and Urban Affairs.

23 (2) CHAIRMAN AND VICE CHAIRMAN.—The
24 Committee shall elect a chairman and a vice chair-
25 man from among its members, one of whom shall be

1 a member of the House of Representatives and the
2 other a member of the Senate.

3 (3) VACANCY.—A vacancy in the membership of
4 the Committee shall be filled in the same manner as
5 the original selection.

6 (b) POWERS.—The Committee, or any duly author-
7 ized subcommittee thereof, is authorized to hold such
8 hearings, to sit and act at such times and such places,
9 to require by subpoena (to be issued under the signature
10 of the chairman or vice chairman of the Committee) or
11 otherwise the attendance of such witnesses and the pro-
12 duction of such books, papers, and documents, to admin-
13 ister such oaths, to take such testimony, to procure such
14 printing and binding, and to make such expenditures as
15 it considers advisable.

16 (c) DUTIES.—the Committee shall be responsible for
17 the continuous study of the programs authorized by this
18 Act, and to review the progress achieved in the execution
19 and administration of such programs. Upon request, the
20 Committee shall aid the standing committees of the Con-
21 gress having legislative jurisdiction over any part of the
22 programs authorized by this Act; and it shall make a re-
23 port to the House of Representatives and the Senate, from
24 time to time, concerning the results of its studies, together
25 with such recommendations as it may consider desirable.

1 (d) INFORMATION FROM FEDERAL AGENCIES AND
2 DEPARTMENTS.—Any department, official, or agency ad-
3 ministering any of such programs shall, at the request of
4 the Committee, consult with the Committee, from time to
5 time, with respect to their activities under this Act.

6 (e) EXPENSES.—The expenses of the Committee,
7 which shall not exceed \$750,000 in any fiscal year, shall
8 be paid one-half from the contingent fund of the House
9 of Representatives and one-half from the contingent fund
10 of the Senate upon vouchers signed by the chairman or
11 vice chairman.

12 **SEC. 6. DEFINITIONS.**

13 In this Act:

14 (1) COVERED EMERGENCY.—The term “covered
15 emergency” means a national emergency in which
16 the President has declared a national emergency and
17 determined that—

18 (A) a disease or disorder presents an emer-
19 gency that affects the United States; or

20 (B) a public health emergency exists, in-
21 cluding a significant outbreak of an infectious
22 disease or a bioterrorist attack.

23 (2) EXISTING HEALTH SYSTEM MEDICAL
24 EQUIPMENT.—The term “existing health system

1 medical equipment” means medical equipment
2 owned by a hospital.

3 (3) FAIR MARKET PRICE.—The term “fair mar-
4 ket price” means the average market price of med-
5 ical equipment from the preceding calendar year.

6 (4) HOSPITAL.—The term “hospital” has the
7 meaning given the term under section 1861(e) of the
8 Social Security Act (42 U.S.C. 1395x(e)).

9 (5) IMPACTED INDIVIDUALS.—The term “im-
10 pacted individuals” means an individual—

11 (A) diagnosed with a condition for which
12 the public health emergency has been issued;

13 (B) that is experiencing symptoms con-
14 sistent with the condition for which the covered
15 emergency has been issued and is seeking a
16 medical diagnosis;

17 (C) that has been identified as having been
18 exposed to a bioterrorist attack; or

19 (D) otherwise meets criteria determined by
20 the Secretary during the covered emergency pe-
21 riod.

22 (6) INDEFINITE DELIVERY-INDEFINITE QUAN-
23 TITY CONTRACT.—The term “indefinite delivery-in-
24 definite quantity contract” means a contract to pro-

1 vide for an indefinite quantity of materials or serv-
2 ices for a fixed time.

3 (7) INDIAN TRIBE.—The term “Indian tribe”
4 has the meaning given the term in section 4 of the
5 Indian Self-Determination and Education Assistance
6 Act (25 U.S.C. 5304).

7 (8) MEDICAL EQUIPMENT.—The term “medical
8 equipment” means—

- 9 (A) N95 respirators;
- 10 (B) medical ventilators;
- 11 (C) face shields;
- 12 (D) medical exam gloves;
- 13 (E) surgical gowns;
- 14 (F) diagnostic tests; and
- 15 (G) such other medical equipment as the
16 Secretary determines to be necessary.

17 (9) NATIONAL EMERGENCY.—The term “na-
18 tional emergency” means a national emergency de-
19 clared by the President under the National Emer-
20 gencies Act (50 U.S.C. 1601 et seq.).

21 (10) OPERATIONS OF THE FEDERAL GOVERN-
22 MENT.—The term “operations of the Federal gov-
23 ernment” means—

- 24 (A) the activities and operations of any
25 Federal department or agency that is substan-

1 tially concerned with the operations or activities
2 required to respond to a public health emer-
3 gency; and

4 (B) the activities and operations of the
5 armed forces.

6 (11) PERSON.—The term “person” has the
7 meaning given such term in section 702 of the De-
8 fense Production Act of 1950 (50 U.S.C. 4552).

9 (12) PREVAILING MARKET PRICE.—The term
10 “prevailing market price” means the average market
11 price of medical equipment during the prior 30 days,
12 as determined by the Secretary of Health and
13 Human Services.

14 (13) PUBLIC HEALTH EMERGENCY.—The term
15 “public health emergency” means a public health
16 emergency declared under section 319 of the Public
17 Health Service Act (42 U.S.C. 247d).

18 (14) SECRETARY.—The term “Secretary”
19 means the Secretary of Homeland Security.

20 (15) STATE.—The term “State” means each of
21 the 50 States and the District of Columbia, each of
22 the territories, and Indian tribes.

23 (16) STRATEGIC NATIONAL STOCKPILE.—The
24 term “Strategic National Stockpile” means the

1 stockpile established under section 319F-2 of the
2 Public Health Service Act (42 U.S.C. 247d-6b).

3 (17) TERRITORY.—The term “territory” means
4 the United States Virgin Islands, Puerto Rico,
5 Guam, American Samoa, and the Commonwealth of
6 the Northern Mariana Islands.